

ANDOVER BOARD OF HEALTH
MINUTES
MONDAY, OCTOBER 20, 2014, 6:00 P.M.
MEMORIAL HALL LIBRARY
2 NORTH MAIN STREET

The Board of Health Meeting was called to order at 6 p.m. Present were Ms. Candace Martin, Chairman, Ms. Katherine Kellman, Vice-Chairman, Gopala K. Dwarakanath, M.D., Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Approval of Minutes

- **September 8, 2014**

Motion by Ms. Martin, seconded by Dr. Dwarakanath, to approve the Minutes of September 8, 2014. Unanimous approval.

- **September 29, 2014, Special Meeting**

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Minutes of the Special Meeting of September 29, 2014. Unanimous approval.

II. Appointments & Hearings

- **6:00 p.m. - Public Hearing on Proposed Tobacco Control Regulations**

To begin the Public Hearing, Ms. Martin explained the ground rules for the Hearing. Each participant must state his/her name as well as location if representing a business. Each participant will be allowed five (5) minutes to speak. The Board will take public comments into consideration when the proposed regulations are voted on at the December 8, 2014 Board of Health Meeting. At the end of the Hearing the Hearing will be closed, but additional written testimony will be allowed for a period of one week, ending at 3 p.m. on Monday, October 27, 2014.

Ms. Martin opened the Meeting for comments.

- Mr. Bob Willard – Andover resident at 76 Tewksbury Street – Mr. Willard stated that he has cancer because of smoking cigarettes, so he is not a fan of smoking. He was in favor of increasing the purchase age from 18 to 21. He suggested that the Board raise the fine for a second offence of selling cigarettes to a minor, to more than \$200.00 because he did not think that was enough to get their attention. He would like to see a fine after the first offence as well.

Mr. Carbone informed the Board that he received e-mails from two groups: New England Convenience Store Association (NECSA), and National Association of Tobacco Outlets, Inc. (NATO).¹ A Representative from NECSA was present at the meeting.

- Mr. Stephen Ryan, Executive Director of NECSA – Mr. Ryan stated that one of the great concerns to NECSA's members is the mandatory display of cessation products. There is only so much space allocated for products and to have to sell more products that they normally do not sell would be problematic for its members. It is difficult to create that space, and the display is of the most important concern for their members. Mr. Ryan stated that he didn't know if the merchants carry any cessation products at this time, and the public may not view a convenience store as a place that would sell such products. As far as increasing the purchase age from 18 to 21, the FDA shows that Andover has 100% compliance of no sales to minors under the age of 18 during their compliance checks. Mr. Ryan stated that there is a study of how raising the age to 21 will affect the sale of tobacco products and suggested the Board wait to see the results of that study.
- Mr. David Proler from Verc Enterprises – Mr. Proler stated that Verc Enterprises holds two Retail Sale of Tobacco Sale Permits – both Mobil Service Stations; one at River Road and one at Lowell Street. His concern was with increasing the purchase age from 18 to 21 and requiring that the stores carry cessation materials for sale. With the policy and procedures they have in place, they don't allow anyone under 18 to purchase tobacco products. If the Board raises the age, they will comply, but it would become a hardship because customers would go somewhere else to make their purchases. It is not in their best interest to sell tobacco products to kids. Mr. Proler stressed that he would like to have more communication with the Board of Health because of "bootlegging" which allows young people to purchase tobacco products at a reduced price in unregulated settings. Mr. Ryan agreed, and stated that kids that are younger than 18 are the problem and create more bootlegging issues, especially if the age is raised to 21. Eighteen year olds are adults and should be able to make these decisions for themselves. He stated that maybe this would work better if the State got involved instead of only certain communities.

In their stores, they have limited space to display their tobacco products and carrying cessation materials as well should be their choice, not a requirement. CVS has decided to stop selling tobacco products, but at the end of the day, people know where to shop for medical supplies and where to shop for tobacco products.

- Dave Nichols, resident at 24 Smithshire Estates – For many years Mr. Nichols was a Health Teacher and Athletic Director in Andover and when he came

¹ The paperwork from NECSA and NATO was inserted into the October 20, 2014 Board of Health Agenda after page 25.

here 20 years ago to be the Administrator of the Health Program, about 27% of the kids were smoking cigarettes, but that is now in the single digits. That is because they made access to cigarette vending machines much more difficult. He stated that kids tend to get their tobacco products from friends and older brothers and sisters rather than “bootleggers”. If you raise the age to 21, it may keep kids from smoking because it would be more difficult to purchase tobacco products. Easy access provides them with the opportunity to smoke. People generally do not start smoking at 30 years of age – they begin to smoke at a younger age, and then continue on. Most kids use the community they are in to purchase tobacco products; they do not generally travel out of town.

- Diane Knight, Director of the Northeast Tobacco Free Community Partnership – Ms. Knight stated her organization is a funded program through the Massachusetts Tobacco and Cessation Program. Ms. Knight stated that she wanted to express her support for increasing the comprehensive nature of the Town’s tobacco policy and the additional provisions the Board is considering to protect young people from access to tobacco products. She is also interested in helping promote cessation, so would like to provide cessation support.

Ms. Martin told the participants that she appreciated the feedback from them. The follow up will be that the Board will accept written testimony up to 3 p.m., Monday, October 27, 2014. The testimony can be sent via e-mail or dropped off at the Town Hall mailbox in front of the building. The Board appreciates all the comments.

Ms. Martin closed the Hearing on Proposed Tobacco Control Regulations at 6:26 p.m.

III. Discussion

- **Approve 2015 Fee Schedule** – The Board discussed the increase in fees and asked about the change in the Camp fee. Mr. Carbone explained that to encourage all camps to attend the Training Session the Health Division will provide, a discounted fee is being proposed. The discounted fee would stay at \$175, but will be increased to \$225 for any camp that does not attend. That would give an incentive for all to attend the session. Mr. Carbone explained some of the fees had not been increased since 2008. The Construction fees would increase by \$10. The sewer, septic, Disposal Works Installers and Drainlayers license would only increase minimally. Sewer repair fees have been too low for a long time and will now be increased to the same fee as any sewer or septic work. The largest increase would be the Well permits from \$75 to \$90.

Motion by Ms. Martin, seconded by Dr. Dwarkanath, to approve the 2015 fee schedule, effective November 1, 2014. Unanimous approval.

IV. Old Business

- **Update on Casco Crossing (not on Agenda)** – Mr. Carbone explained to the Board that he did speak with Mr. Weinstein and was told that the repair work was on schedule to begin in the Fall. Some patching has been done around Buildings 1 and 2 in the interim. This is scheduled for a status update in November. Dr. Dwarakanth stated that in August they seemed sure that the work would begin and there would be no problem getting it done by late October. Ms. Martin stated that they also got approval of the design from the state in August. Mr. Carbone acknowledged that the Board did not want this repair to be put off until the Spring. He spoke with the Director of the Architectural Access Review Board and they both were concerned that the owners would delay construction to the spring and he wouldn't support that. According to Mr. Weinstein's e-mail, they just finished survey work and he was due before the AAB this week.
- **Update on Susan Odle Court Case (not on Agenda)** – Mr. Carbone explained that on Friday the expectation was that a Receiver would be assigned. However, the Judge was unable to be in Court that day, so the case was continued to this coming Friday. Ms. Odle has cleaned up much of an area that she was supposed to, so Mr. Carbone was hopeful that we will be able to ask for a dismissal at the next court hearing. Since she has been doing the cleanup with a coach, he is hopeful that the debris will not return.
- **Update on 2 Dufton Road Order for Cleanup (not on Agenda)** – Mr. Carbone informed the Board that he issued a supplemental ORDER to U.S. Bank and received a letter requesting a Hearing concerning that ORDER as well as for reconsideration of the last vote. Mr. Carbone needed the Board to schedule a special Board of Health Meeting in order to address the issues because Attorney Christensen was unable to attend tonight's meeting. The violations the bank wanted to appeal were the initial wiring issues Mr. Carbone found and the leaking waste pipe. There is also a sump pump that is connected to the sewer line that has to be removed. Mr. Boyer has said that he would take care of the leaking pipe. Mr. Carbone's major concern was the life safety issues of the electrical and the leaking waste line.

Mr. Carbone agreed to send some possible dates to the members in order to schedule the meeting via email.

V. Subdivision Definitive Plans

- N/A

VI. Plan Review

- **DWRP – Variances/Local Upgrade Approval**
 - N/A

VII. Staff Reports

A. Director's Reports:

- **Important Dates:**

- October 22, 23, & 24 - MHOA Conference
- October 25, 2014 – Fire Department Open House
- November 6, 2014 – Adult Flu Clinic
- November 17, 2014 – Family Flu Clinic
- November 17, 2014 at 6 p.m. – Board of Health Meeting
- December 8, 2014 at 6 p.m. – Board of Health Meeting

B. Nurses' Report for September, 2014 – The Nurses' Report for September, 2014, was for informational purposes only.

C. Inspectors' Reports for September, 2014 – The Inspectors' Reports for September, 2014, were for informational purposes only.

Board Member Reports

- N/A

Adjournment

Motion by, Ms. Martin, seconded by Ms. Kellman, to adjourn at 6:55 p.m. Unanimous approval.